

## REMARKS

### Status of the Claims

The amendments and remarks presented herein put all of the claims in condition for allowance. Applicants request reconsideration of the pending rejections in light of their amendments and remarks.

Prior to this amendment, claims 1-4, 9, 14, and 19-22 were pending and had been examined.

Applicants appreciate the Examiner's statement that claim 9 is allowable. Applicants also appreciate the particularity and care with which the Examiner has explained how the previous response overcame some of the pending rejections.

Applicants have amended claims 1, 2, and 21.

Applicants have added claim 23 to more particularly point out and distinctly claim their invention. Support for this claim can be found at, for example, page 1, lines 27-31 and page 5, line 27 to page 6, line 4. No new matter has been added.

### Obviousness-Type Double-Patenting Rejection

Applicants have filed concurrently herewith a Terminal Disclaimer over U.S. Patent 6,121,266. This obviates the obviousness-type double-patenting rejection of all of the

pending claims. Applicants request that the Examiner withdraw this rejection.

Rejections Under 35 U.S.C. § 112, first paragraph

Claims 1-4 and 19-22

Claims 1-4 and 19-22 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that the definition of "aromatic ether," set forth in lines 8-11 of claim 1, is not found in the specification. Applicants traverse.

In the sole interest of moving this case towards allowance and without addressing the merits of this rejection, however, applicants have amended claim 1 (and the claims that depend from it) so that "aromatic ether" is no longer recited, thereby obviating this rejection. This amendment is not a narrowing amendment in the context of any other element of the claim. Applicants request withdrawal of this rejection.

Claim 21

Claim 21 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner contends that claim 21 "would read on treating every disease known to mankind." Applicants traverse.

Applicants have amended claim 21 to more particularly point out and distinctly claim their invention. Claim 21, as amended, recites the treatment of certain diseases and disorders in a mammal. Support for this amendment can be found at, for example, page 1, lines 27-31 and at page 5, line 27 to page 6, line 4. This does not add new matter. It also is not a narrowing amendment. Rather, it clarifies the meaning of the claim. Applicants request withdrawal of this rejection.

Rejections Under 35 U.S.C. § 112, second paragraph

Claim 2

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner contends that because R<sub>4</sub> in claim 1 recites, *inter alia*, a "substituted phenyl," there is no antecedent basis for the term "said aryl is phenyl" in dependent claim 2.

Applicants have amended claim 2 to more particularly point out and distinctly claim their invention. Amended claim 2 now recites that R<sub>1</sub> aryl, R<sub>5</sub> aryl, and R<sub>6</sub> aryl are independently phenyl, naphthyl or substituted phenyl. Thus, claim 2 no longer references the R<sub>4</sub> aryl in claim 1. Support for this amendment can be found, for example, at page 5, line 4. It is a clarifying amendment that does not narrow the claim. Applicants request withdrawal of this rejection.

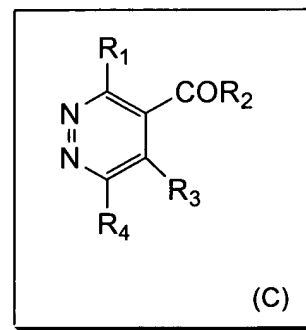
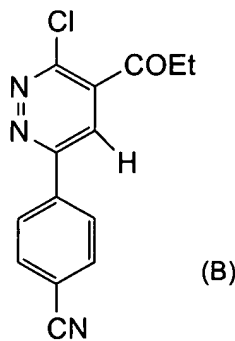
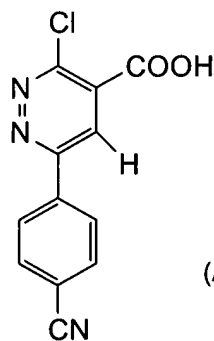
### Claims 21 and 22

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner contends that there is no antecedent basis for the term "a pharmaceutical composition comprising the compound of any one of claims 1-4" as recited in claim 21 (and dependent claim 22).

To obviate this rejection in the manner suggested by the Examiner, however, applicants have amended claim 21 (and thus claim 22) to, *inter alia*, depend from claim 19. This amendment does not narrow the claims. It merely clarifies the originally intended scope. Accordingly, applicants request that this rejection be withdrawn.

### Rejections Under 35 U.S.C. § 102

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(e) as anticipated by Linz (U.S. Patent 5,418,233). The Examiner contends that two compounds from Linz, depicted below as compounds (A) and (B), fall within the genera of applicants' claimed compound (C).




Applicants have amended claim 1 (and thus dependent claim 2) to overcome this rejection, as well as to more particularly point out and distinctly claim their invention. Specifically, applicants have amended claim 1 to make clear that the substituents of the R<sub>4</sub> substituted phenyl are selected from the group consisting of halo, lower alkyl, nitro, amino, acylamino, hydroxy, lower alkoxy, alkyl sulfonyl, arylsulfonamido, trifluoromethyl, morpholinoethoxy, morpholinosulfonyl, and carbobenzoxy-methyl sulfonyl. Support for this amendment can be found at, for example, page 5, lines 6-11.

Applicants submit that the definition of applicants' claimed compound in amended claim 1 no longer embraces either of Linz's compounds. Common to both of Linz's compounds is a 4-cyanophenyl substituent at the position corresponding to R<sub>4</sub> in applicants' claimed compound. In contrast, the defined substituents for a R<sub>4</sub> substituted phenyl in amended claim 1 does not include a cyano group. Thus, Linz does not anticipate claims 1 and 2. Accordingly, applicants request that the Examiner reconsider and withdraw this rejection.

CONCLUSION

Applicants respectfully submit that all of the pending claims are in form for allowance. If the Examiner believes, however, that any matters remain outstanding, applicants request that the Examiner call the undersigned.

Respectfully submitted,

  
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Limited recognition pursuant  
to 37 C.F.R. §11.9(b)  
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